

both of those cases the courts held there was no duty to warn where the dangers are of common knowledge.

Mr. MCCONNELL. This basic principle is part of case law and it is also set forth in the Restatement of Torts, at section 402A, which I would like to include in the RECORD. The relevant part provides that defendants

Are not required to warn with respect to products, or ingredients in them, which are only dangerous, or potentially so, when consumed in excessive quantity, or over a long period of time, when the danger, or potentiality of danger, is generally known and recognized. Again the dangers of alcoholic beverages, are an example, as are also those foods containing such substances as saturated fats, which may over a period of time have a deleterious effect upon the human heart.

I thank my colleague for responding to my inquiries.

Mr. GORTON. I am glad we clarified the meaning of section 106.

Mr. HOLLINGS. Mr. President, I have been at the Budget Committee all afternoon, and so I have not been able to monitor all the nuances, but we are now hearing that reasoned objections need not be given to this provision because the distinguished Senators say that they are going to take care of this issue in conference.

That could be. I have served on many a conference committee and I have learned that you are never able really to control it. Each Senator is given a vote, along with the House Members.

Be that as it may, I will not give the reasons why I am concerned about this provision at this particular time, other than to say that I am also honestly objecting. I am courteously objecting. I do not know how to say it any better than that.

When the proponents make a request, a unanimous-consent request, and assume that theirs is the only honest request, courteous request, and sincere request, and how they can be more honest, then that constrains me to stand and say that I am just as courteously objecting and honestly objecting as I know how to object. And I object.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

#### UNANIMOUS CONSENT AGREEMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that notwithstanding rule XXII, that the following amendments be the only remaining amendments in order to H.R. 956, and not be in order after the hour of 11 o'clock a.m. on Wednesday: Harkin, punitive damages; Boxer, harm to women; Dorgan, punitive cap; Heflin-Shelby, Alabama wrongful death cases; Heflin, punitive damage insurance.

I ask unanimous consent that the vote occur in relation to the Shelby-Heflin amendment number 693 at 9:45 a.m. on Wednesday, to be followed by a

vote on or in relation to the Harkin amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that following the disposition of the above listed votes, if no other Senator on the list is seeking recognition to offer their amendment, the Senate proceed to the adoption of the Coverdell-Dole substitute, as amended, the Gorton substitute, and the bill be advanced to third reading without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that following third reading, the following Members be recognized for the following allotted times, to be followed immediately by a vote on H.R. 956, as amended:

Senator HEFLIN, followed by Senator ROCKEFELLER, 15 minutes each; followed by Senator GORTON, 15 minutes; followed by Senator HOLLINGS, 15 minutes; and followed by Senator LEVIN, 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER TO PROCEED TO S. 534

Mr. DOLE. Mr. President, I ask unanimous consent, and this has been cleared by the Democratic leader, at 12 noon on Wednesday, May 10, the Senate proceed to calendar 74, S. 534, the Solid Waste Disposal Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I think Senator HARKIN plans to offer his amendment in about 20 minutes, at 7 o'clock. I am not certain whether the amendments by Senator BOXER or DORGAN will be offered.

We have the agreement, in any event. I want to thank my colleagues on both sides of the aisle. This means no more votes tonight. We can alert our colleagues but there will be debate on the Harkin amendment, and I assume other amendments if they want to be called up. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. I thank the Chair.

Mr. President, I rise this evening in support of the product liability reform bill now under consideration, and I would like to just preface my remarks by offering my compliments to the bill's managers for their tenacity in sticking with this process as we have moved through all the various perspectives to find a point of common agreement between 60 Members of the Senate. I think both Senator ROCKEFELLER and Senator GORTON worked very effec-

tively on this product liability reform effort.

I believe the bill represents an excellent start at reforming our civil justice system, a system that eats up over \$300 billion a year in legal and court costs, awards, and litigants' lost time, not to mention the loss to consumers and the economy from higher prices for products, innovations and improvements not on the market, and unnecessarily high insurance costs.

By placing reasonable limitations on punitive damages in product liability suits, this legislation will begin the process of reforming our litigation lottery without harming anyone's right to recover for damages suffered.

I am especially pleased that the bill now includes a special provision limiting punitive damages for individuals with assets of less than \$500,000 and for small businesses with fewer than 25 employees. This provision is modeled on a proposal that Senator DEWINE and I cosponsored and provides that the maximum award against such individuals or entities is the lesser of \$250,000 or twice compensatory damages.

Mr. President, no one benefits when businesses go bankrupt because of arbitrary punitive damage awards. Small businesses are particularly susceptible to such problems as are the millions of Americans employed by them.

The bill will also eliminate joint liability for noneconomic damages in product liability cases. Thus the bill would end the costly and unjust practice of making a company pay for all damages when it is only responsible for, say, 20 percent just because the other defendants are somehow judgment proof.

The bill would replace the outmoded joint liability doctrine with proportionate fault in which each defendant would have to pay only the amount necessary to cover the damage for which he or she was responsible.

The bill also creates some important limitations on the liability of sellers of products generally as well as on the liability of suppliers of raw materials critical to the production of lifesaving medical devices.

These provisions go a good way toward restoring individual responsibility as the cornerstone of tort law. They also recognize an important fact about our legal system. Ultimately, in its current form, it is profoundly anticonsumer. By raising the prices of many important goods, our legal system makes them unavailable to poor individuals who cannot afford them when an exorbitant tort tax has been added. And in extreme cases our legal system can literally lead to death or misery by driving off the market drugs that, if properly used, can cure terrible but rare diseases or medical devices for which raw materials are unavailable on account of liability risks.

These are important reforms, Mr. President; reforms that will increase product availability, decrease prices and save jobs.